

Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 01 – Health Facilities Licensure and Certification

CHAPTER 46 MINIMUM STANDARDS OF OPERATION FOR HOME HEALTH AGENCIES

PART I GENERAL HOME HEALTH AGENCIES

The following minimum standards of operation for home health agencies have been promulgated pursuant to Mississippi Code Annotated §41-71-1 through §41-71-19 (Supplement 1986), and are to be followed by persons operating a home health agency. They are minimum requirements that home health agencies will adopt new and improved methods and practices as they develop without waiting for improvements in the Standards. Regulatory in nature by necessity, they are designed to be educational in character and are intended to be reasonable and practicable. Laws and Standards are limited in what they can do in meeting the manifold health needs of individuals. Each home health agency bears a strong moral responsibility for providing the best possible care for the patients it serves.

100 LEGAL AUTHORITY

100.01 **Adoption of Minimum Standards of Operation.** By virtue of authority vested in it by the Legislature of the State of Mississippi as per House bill #427 enacted by the Regular 1981 Session of the Legislature of the State of Mississippi, as amended in 1986, the Mississippi Department of Health does hereby adopt and promulgate the following Minimum Standards of Operation for Home Health Agencies.

100.02 **Effective date of Minimum Standards of Operation for Home Health Agencies.** The Mississippi Department of Health does hereby adopt these Minimum Standards of Operation for Home Health Services. These Minimum Standards of Operation are effective as of September 21, 1981. Any home health agency which is in operation on July 1, 1981, shall be given a reasonable time under the particular circumstances, not to exceed one (1) year from July 1, 1981, within which to comply with the provisions of the Mississippi Department of Health Act of 1979, as amended, and these Minimum Standards of Operation for Mississippi Home Health Agencies.

101 DEFINITIONS. As used in these minimum standards, the words and terms hereinafter set forth, shall be defined as follows:

101.01 **Administrator** shall mean an individual who is delegated the responsibility for the interpretation, implementation, and proper application of policies and

programs established by the governing authority and is delegated responsibility for the establishment of safe and effective administrative management, control, and operation of the services provided. This individual shall be one of the following:

1. An individual with a baccalaureate degree and at least one year of administrative experience in home health care or in a related health provider program, occurring within the last three (3) years;
2. An incumbent administrator as of July 1, 1981;
3. An individual with a minimum of three (3) years of administrative experience in a health related field, one year of which shall be full-time in a home health setting, occurring within the last three (3) years.

101.02 **Audiologist** shall mean an individual who meets the educational and experience requirements for a Certificate of Clinical Competence granted by the American Speech and Hearing Association and is currently licensed as an audiologist in the State of Mississippi.

101.03 **Branch Office** shall mean a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary to obtain a separate license as a home health agency. A branch office shall be staffed with at least one (1) registered nurse on a full-time basis.

101.04 **Care Team** shall mean a group of individuals responsible for the development of each patient's care plan. The care team shall consist of, but not be limited to, the physician or podiatrist, pertinent members of the agency staff, the patient and member of his/her family.

101.05 **Certified Respiratory Therapy Technician** shall mean an individual who has passed the National Board of Respiratory Therapy certification examination and renders services under consultation from a registered respiratory therapist.

101.06 **Change of Ownership** means but is not limited to, inter vivos gifts, purchases transfers, leases, cash and/or stock transactions or other comparable arrangements whenever the person or entity acquires a majority interest (fifty percent (50%) or more) of the facility or service. Changes of ownership from partnerships, single proprietorships or corporations to another form of ownership are specifically included. Provided, however, "Change of Ownership" shall not include any inherited interest acquired as a result of a testamentary instrument or under the laws of descent and distribution of the State of Mississippi. The change of IRS exemption status also constitutes a change of ownership.

- 101.07 **Clinical Note** shall mean a written notation, dated and signed by the appropriate member of the health team, of a contact with a patient, containing a description of signs and symptoms, treatment and/or drugs given, the patient's reaction and any changes in physical or emotional condition. Clinical notes are written on the day service is rendered and incorporated into the patient's clinical records at least weekly.
- 101.08 **Clinical Record** shall mean a legal document containing all pertinent information relating to the care of an individual patient.
- 101.09 **Consumer** shall mean a person who is neither an owner nor employee of the agency.
- 101.10 **Coordinated** when used in conjunction with the phrase, Home Health Services, shall mean the integration of the multidisciplinary services provided by patient care team members directed toward meeting the home health needs of the patient.
- 101.11 **Criminal History Record Checks.**
1. **Affidavit.** For the purpose of fingerprinting and criminal background history checks, the term “affidavit” means the use of Mississippi Department of Health (MDH) Form #210, or a copy thereof, which shall be placed in the individual’s personal file.
 2. **Employee.** For the purpose of fingerprinting and criminal background history checks, employee shall mean any individual employed by a covered entity. The term employee”, also includes any individual who by contract with the covered entity provides direct patient care in a patient’s , resident’s, or client’s room or in treatment rooms.
- The term employee does not include healthcare professional/technical students, as defined in Section 37-29-232, performing clinical training in a licensed entity under contracts between their schools and the licensed entity, and does not include students at high schools who observe the treatment and care of patients in a licensed entity as part of the requirements of an allied health course taught in the school if:
- a. The student is under the supervision of a licensed healthcare provider; and
 - b. The student has signed the affidavit that is on file at the student’s school stating that he or she has not been convicted of or plead guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offenses listed in section 45-33-23 (g), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or

plea was reversed on appeal or a pardon was granted for the conviction or plea.

- c. Further, applicants and employees of the University of Mississippi Medical Center for whom criminal history record checks and fingerprinting are obtained in accordance with Section 37-115-41 are exempt from application of the term employee under Section 43-11-13.
 3. **Covered Entity.** For the purpose of criminal history record checks, “covered entity” means a licensed entity or a healthcare professional staffing agency.
 4. **Licensed Entity.** For the purpose of criminal history record checks, the term “licensed entity” means a hospital, nursing home, personal care home, home health agency or hospice.
 5. **Health Care Professional/Vocational Technical Academic Program.** For the purpose of criminal history record checks, “health care professional/vocational technical academic program” means an academic program in medicine, nursing, dentistry, occupational therapy, physical therapy, social services, speech therapy, or other allied-health professional whose purpose is to prepare professionals to render patient care services.
 6. **Health Care Professional/Vocational Technical Student.** For purposes of criminal history record checks, the term means a student enrolled in a healthcare professional/vocational technical academic program.
 7. **Direct Patient Care or Services.** For purposes of fingerprinting and criminal background history checks, the term “direct patient care” means direct hands-on medical patient care and services provided by an individual in a patient, resident or client’s room treatment room or recovery room. Individuals providing direct patient care may be directly employed by the facility or provides patient care on a contractual basis.
 8. **Documented Disciplinary Action.** For the purpose of fingerprinting and criminal background history checks, the term “documented disciplinary action” means any action taken against an employee for abuse or neglect of a patient.
- 101.12 **Director of Nursing** shall mean the individual responsible for the coordination of all patient services rendered by parent, sub-unit and branches as applicable. He/she shall be currently licensed in Mississippi with:
1. A baccalaureate degree in nursing and two (2) years of registered nursing experience, or

2. A graduate of a diploma school of nursing with two (2) years of registered nursing experience, or
 3. An associate degree of nursing with four (4) years of registered nursing experience, or
 4. An incumbent Director of Nursing as of July 1, 1981.
- 101.13 **Directly** shall mean providing home health services through salaried employees of the home health agency or through personnel under hourly or per visit contracts or the equivalent. Where an hourly or per visit contract is made, Part V Section H must be followed to ensure adequate control and supervision by the home health agency.
- 101.14 **Direct Supervision** shall mean that a registered nurse or appropriate health professional is physically present in the immediate area where the patient is being provided services.
- 101.15 **Discharge Summary** shall mean the written report of condition of patient, services rendered, pertinent goals achieved during the entire service provided and final disposition at the time of discharge from the service.
- 101.16 **Geographic Area** shall mean the land area, for which the agency shall be licensed. The geographic area shall be expressed in Mississippi counties.
- 101.17 **Governmental Agency** for licensure purposes shall mean an agency operated by a federal, state or local government and is not connected to a hospital.
- 101.18 **Governing Authority** means the organization, person or persons designated to assume full legal and financial responsibility for the policy determination, management, operation, and financial viability of the home health agency.
- 101.19 **Governing Body Bylaws** shall mean a set of rules adopted by the governing body of the home health agency for governing the agency's operation.
- 101.20 **Home Health Agency** shall mean a public or privately owned agency or organization or a subdivision of such an agency or organization, properly authorized to conduct business in Mississippi, which is primarily engaged in providing to individuals, at the written direction of a licensed physician or podiatrist, in the individual's place of resident, skilled nursing services provided by or under the supervision of a registered nurse licensed to practice in Mississippi and one or more of the following part-time intermittent services or items:
1. Physical, occupational, or speech therapy;
 2. Medical Social Services;

3. Home Health aide services;
4. Other services as approved by the licensing agency;
5. Medical supplies, other than drugs and biologicals, and the use of medical appliances;
6. Medical services provided by a resident in training at a hospital under a teaching program of such hospital.

- 101.21 **Home Health Aide** shall mean a non-professional individual who has completed a home health aide training program meeting requirements as specified in Part V, Section I. The home health aide provides personal care services for a person in the home, under the supervision of a registered nurse or therapist of the agency. The care must relate to the type of supervision.
- 101.22 **Hospital Based Agency**. To be classified as a hospital based agency, the agency must be a clearly definable separate department of a hospital.
- 101.23 **License of Home Health Agency** shall mean the document issued by the Mississippi Department of Health and signed by the Executive Director of the Mississippi Department of Health and the Chief of the Division of Licensure and Certification. Licensure shall constitute authority to perform the services included within the scope of these minimum standards of operation.
- 101.24 **Licensed Practical Nurse** shall mean an individual who is currently licensed as such in the State of Mississippi and is a graduate of an approved school of practical nursing, performing selected acts, as defined in the Mississippi Nurse Practice Act under the supervision of a registered nurse.
- 101.25 **Licensee** shall mean the defined persons to whom the license is issued and upon whom rests the responsibility for the operation of the agency in compliance with these minimum standards of operation.
- 101.26 **Licensing Agency** shall mean the Mississippi Department of Health.
- 101.27 **May** shall mean permission.
- 101.28 **Medical Equipment and Supplies** shall mean items which, due to their therapeutic or diagnostic characteristics, are essential in enabling a home health agency to carry out patient care.
- 101.29 **Medical Social Worker** shall mean a person who has a master's degree or bachelor's degree from a school of social work accredited by the Council on Social Work Education or Southern Association of Colleges and Schools and is licensed by the State of Mississippi as such and who has one year of social work experience in a health care setting.

- 101.30 **Occupational Therapist** shall mean a person who is currently licensed as such in the State of Mississippi and is performing therapy duties in accordance with the Mississippi Occupational Therapy Practice Act.
- 101.31 **Occupational Therapy Assistant** shall mean a person who is currently licensed as such by the State of Mississippi and is performing therapy duties in accordance with the Mississippi Occupational Therapy Practice Act.
- 101.32 **Owner** shall mean a person who owns five percent (5%) or more of the interest in the agency.
- 101.33 **Parent Home Health Agency** shall mean the agency that develops and maintains administrative control of sub-units and/or branches.
- 101.34 **Part-time or Intermittent Care** shall mean home health services given to a patient at least once every sixty (60) days or as frequently as a few hours a day, several times a week. This does not mean eight (8) hour shifts in the home.
- 101.35 **Patient** shall mean any individual whose condition is of such severity that the individual should be confined to his/her place of residence because of acute or chronic illness or injury or individuals with disabilities, convalescent or infirm, or who is in need of rehabilitative, obstetrical, surgical, medical, nursing, or supervisory care in their place of residence and under the care of a physician or podiatrist.
- 101.36 **Patient Care Plan** shall mean a written coordinated plan of rendering care to the patient prepared by the combined as appropriate with each discipline providing service and the patient and/or family.
- 101.37 **Patient's Residence** shall mean the place where the patient makes his home, such as his own apartment or house, a relative's home but shall not include a hospital, nursing home or other extended care facility with the exception of services provided through outpatient therapy in a nursing home.
- 101.38 **Person** shall mean an individual, firm, partnership, corporation, company, association, or joint stock association, or any licensee herein or the legal successor thereof.
- 101.39 **Physical Therapist** shall mean an individual who is currently licensed to practice physical therapy in the State of Mississippi.
- 101.40 **Physical Therapist Assistant** shall mean an individual who is currently licensed to practice as such in the State of Mississippi under the supervision of a Licensed Physical Therapist.
- 101.41 **Physician** shall mean an individual currently licensed by the proper authority in his state to practice medicine or osteopathy.

- 101.42 **Podiatrist** shall mean an individual currently licensed by the proper authority in the state of Mississippi to practice podiatry.
- 101.43 **Physician's or Podiatrist's Summary Report** shall mean a concise statement reflecting the care, treatment, frequency of treatment, and response in accordance with the patient's plan of care as prescribed by the physician or podiatrist. The statement should include written notations of any unusual occurrences that have or have not been previously reported and submitted to the physician or podiatrist at least every 60 days.
- 101.44 **Plan of Treatment** shall mean the written instructions, signed and reviewed at least every 60 days or more often if the patient's condition so warrants, by the physician or podiatrist for the provision of services.
- 101.45 **Private Non-Profit Agency** means agency that is exempt from federal income taxation under Section 501 of the Internal Revenue Code of 1954.
- 101.46 **Professional Advisory Committee Bylaws** shall mean a set of rules adopted by the advisory committee governing the committee's operation.
- 101.47 **Progress Note** shall mean a written, signed and dated notation by the profession providing care, summarizing the information about the care provided by all the disciplines and the patient's response to the care during a given period of time.
- 101.48 **Professional Advisory Committee** shall mean a group, which includes at least one physician, one registered nurse, agency staff, professional not associated with the agency, consumers, and preferably other health professionals representing at least the scope of the program, which will advise the agency on professional issues, evaluate the agency and serve as liaison with the community.
- 101.49 **Proprietary Agency** shall mean a private organization not exempt from federal income taxation under Section 501 of the Internal Revenue Code of 1954.
- 101.50 **Registered Dietitian** shall mean a person who has successfully completed the national examination for dietitians and maintains their registration by meeting continuing education requirements.
- 101.51 **Registered Nurse** shall mean an individual who is currently licensed as such in the State of Mississippi and is performing nursing duties in accordance with the Mississippi Nurse Practice Act.
- 101.52 **Registered Respiratory Therapist** shall mean an individual who has passed the National Board of Respiratory Therapy Examination.
- 101.53 **Shall** shall mean mandatory requirement(s).

- 101.54 **Should** shall mean recommendation(s).
- 101.55 **Skilled Nursing Services** shall mean patient care services pertaining to the curative, restorative, and preventive aspects of nursing performed by or under the supervision of a registered nurse pursuant to the plan of treatment established in consultation with appropriate members of the care team. Skilled nursing service is nursing care emphasizing a high level of nursing direction, observation and skill.
- 101.56 **Speech Pathologist** shall mean an individual who meets the educational and experience requirements for a Certificate of Clinical Competence granted by the American Speech and Hearing Association or is fulfilling the Supervised Professional Employment requirements for a Certificate of Clinical Competence as dictated by the American Speech and Hearing Association and is currently licensed as such by the State of Mississippi.
- 101.57 **Subdivision** shall mean a component of a multi-functional health facility, such as the home health department of a hospital or a health department, which independently meets the licensure standards for home health agencies.
- 101.58 **Sub-Unit** shall mean a component of a multi-functional health facility, such as the home health department of a hospital or a health department, which independently meets the licensure standards for home health agencies.
- 101.59 **Supervising Nurse** shall mean a registered nurse currently licensed in Mississippi, with:
1. A baccalaureate degree in nursing and one (1) year of registered nursing experience, or
 2. A graduate of a diploma school of nursing with one (1) year of registered nursing experience, or
 3. An associate degree of nursing with three (3) years of registered nursing experience, or
 4. An incumbent supervising nurse as of July 1, 1981.
- 101.60 **Supervision** shall mean authoritative procedural guidance by a qualified person of the appropriate discipline on a timely basis.
- 101.61 **Utilization Review** shall mean systematic evaluation of clinical records to determine the appropriateness and timeliness of services rendered as they relate to the plan of treatment and the person's needs.

101.62 **Under Arrangement** shall mean the procedure enabling public and nonprofit home health agencies to provide services through contractual arrangements with other agencies or organizations, including proprietary agencies or organizations. (Part V, Section H).

101.63 **Under Contract** shall mean the provision of services through a written contract with an individual.

102 PROCEDURE GOVERNING ADOPTION AND AMENDMENT

102.01 **Authority**. The Mississippi Department of Health shall have the power to adopt, amend, promulgate and enforce such minimum standards of operation as it deems appropriate, within the law.

102.02 **Amendments**. The minimum standards of operation for home health agencies may be amended by the licensing agency from time to time as necessary to promote the health, safety, and welfare of persons receiving services in compliance with the Administrative Procedures Act of the State.

103 INSPECTION

103.01 **Inspections Required**. Each home health agency shall be inspected by the State Department of Health delegated with authority by said Department of Health at such intervals as the Department of Health may direct. New agencies shall not be licensed without first having been inspected for compliance with these minimum standards.

PART II CLASSIFICATION OF HOME HEALTH AGENCIES

104 CLASSIFICATION

104.01 **General.** For the purposes of these minimum standards of operation, home health agencies shall be classified as:

1. Private non-profit agency
2. Proprietary agency
3. Hospital based agency
4. Governmental agency

105 PART III THE LICENSE

106 TYPES OF LICENSE

- 106.01 **Regular License.** A regular license shall be issued to each home health agency that meets the requirements as set forth in these minimum standards. The license shall show the classification of the agency (private non-profit, proprietary, hospital based or governmental agency).
- 106.02 **Provisional License.** Within its discretion, the Mississippi Department of Health may issue a provisional license when a temporary condition of non-compliance with these minimum standards exists in one particular. A provisional license shall be issued only if the Department of Health is satisfied that preparations are being made to qualify for a regular license and that the health and safety of patients will not be endangered meanwhile. A provisional license may be reissued only if it is satisfactorily proven to the Department of Health that efforts are been made to fully comply with these minimum standards by a specified time.

107 APPLICATION FOR LICENSE

- 107.01 **Application.** Application for a license or renewal of license shall be made in writing to the licensing agency on forms provided by the Department of Health which shall contain such information as the Department of Health may require. The application shall require reasonable affirmative evidence of ability to comply with these minimum standards. Each application for licensure and relicensure shall contain but not be limited to the following:
1. Complete ownership information
 2. Geographic area to which services are provided.
 3. Services to be provided directly or through arrangement
 4. Information on numbers and types of personnel employed
 5. Utilization statistics (renewal applications only)
 6. Name of licensee
 7. Evidence of Certificate of Need
 8. Location of branch offices and/or sub-units
 9. Location and name of parent agency (if a sub-unit)
- 107.02 **Fee.** In accordance with House Bill #427 of the Mississippi Legislature each application for initial licensure shall be accompanied by a fee of \$500.00 in

check or money order made payable to the Mississippi Department of Health. The fee shall not be refundable after a license has been issued. If the licensure period is less than a full licensure year (July 1 - June 30), the fee shall be pro rated according to the actual days to be covered in the license. Effective July 1, 1981, the fee for licensure renewal shall be \$500.00 per year.

108 THE LICENSEE

- 108.01 **Responsibility.** The Licensee shall be the individual, firm, partnership, corporation, company, association, or joint stock association responsible for the operation of the home health agency. The licensee shall designate, in writing, one (1) individual as the responsible party for the conducting of the business of the home health agency in accordance with these Minimum Standards of Operation and for the conducting of the business of the home health agency with the licensing agency.
- 108.02 **Name of Institution.** Every Home Health agency shall be designated by a permanent and distinctive name which shall be used in applying for a license and shall not be changed without first notifying the licensing agency in writing and receiving written approval of the change from the licensing agency. Such notice shall specify the name to be discontinued as well as the new name proposed. Only the official name by which the agency is licensed shall be used in telephone listing, on stationery, in advertising, etc. Two or more agencies shall not be licensed under similar names.

109 LICENSURE

- 109.01 **Issuance of License.** All licenses issued by the Department of Health shall set forth the name of the agency, the location, the name of the licensee, the classification of the agency, the geographic area served, the license number, services provided, and the name of the responsible party.
- 109.02 **Geographic Area.** The service area of each home health agency shall consist of the counties listed on the agency's license. Should a home health agency desire to render services outside this service area, a Certificate of Need shall be obtained and a sub-unit established.
- 109.03 **Separate License.** Separate licenses shall be required for each agency and each sub-unit. However, separate licenses are not required for branch offices. Sub-units shall not operate branch offices.
- 109.04 **Posting of License.** The license shall be posted in a conspicuous place on the licensed premises and shall be available for review by any and all interested individuals.
- 109.05 **License Not Transferable.** The license for a home health agency is not transferable or assignable to any other person except by written approval of the licensing agency and shall be issued only for the person and location

named in the application. The license shall be surrendered to the Department of Health on change of ownership, name or location of the agency or in the event that the agency ceases to be operated as a home health agency. In event of a change of ownership, name or location of the agency, or change in services, a new application shall be filed at least thirty (30) days prior to the effective date of the change.

109.06 **Expiration of License.** Each license shall expire on June 30 following the date of issuance.

109.07 **Renewal of License.** License shall be renewable annually upon:

1. Filing of an application for renewal by the licensee.
2. Submission of appropriate licensure renewal fee as mandated in Section B.
3. Approval of an annual report by the licensing agency.
4. Maintenance by the agency of minimum standards in its staff, services, and operation as set forth in these minimum standards.
5. Evidence of Certificate of Need, when applicable.

110 RECORDS AND REPORTS

110.01 **General.** Each home health agency shall submit such records and reports as the Department of Health may request.

110.02 **Daily Patient Census.** Each agency shall maintain on a daily basis a current patient census log that accurately reflects admissions and discharges.

110.03 **Annual Report.** Prior to relicensure, each agency shall submit to the licensing agency an annual report for the previous calendar year period, which shall include statistics as the Department of Health may direct.

111 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

111.01 **Denial or Revocation of License.** Hearings and Review. The licensing agency after notice and opportunity for a hearing to the applicant or licensee is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been a failure to comply with the requirements established under the law and these minimum standards.

Also, the following may be grounds for denial or revocation of license:

1. Fraud on the part of the licensee in applying for a license.
2. Violations by the licensee of the minimum standards established by the Department of Health.

3. Publicly misrepresenting the agency and/or its services.
4. Conduct or practices detrimental to the Health or safety of patients and employees of said agency provided that this provision shall not be construed to have any reference to healing practices authorized by law. Detrimental practices include but are not necessarily limited to:
 - a. Cruelty to patients or indifference to their needs which are essential to their general well-being and health.
 - b. Misappropriations of the money or property of a patient.
 - c. Inadequate staff to provide safe care and supervision of any patient.
 - d. Failure to call a physician or podiatrist when required by patient's condition.
5. Failure to comply with the requirements of the Mississippi Commission Act of 1979, amended.

112 PROVISION FOR HEARING AND APPEAL

112.01 **Administrative Decision.** The Mississippi Department of Health will provide an opportunity for a hearing to every applicant or licensee who is dissatisfied with administrative decisions made in the denial or revocation of license. The licensing agency, after notice and opportunity for a hearing to the applicant or licensee, is authorized to deny, suspend or revoke a license in any case in which it finds that the applicant or licensee has failed to comply with the requirements established by this act or the rules, regulations or standards promulgated in furtherance of this act. Such notice shall be given by registered mail, or by personal service, setting forth the particular reasons for the proposed action and fixing a date of not less than thirty (30) days from the date of such mailing or such personal service, at which times the applicant or licensee shall be given an opportunity for a prompt and fair hearing. On the basis of any such hearing, or upon default of the applicant or licensee, the licensing agency shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision revoking, suspending or denying the license or application shall be come final thirty (30) days after it is so mailed or served, unless the applicant or licensee, within such thirty (30) day period, appeals the decision to the chancery court pursuant to Section 6 of House Bill #427 of the 1981 Legislative Session. The procedure governing hearings shall be in accordance with rules and regulations promulgated by the licensing agency.

112.02 **Penalties.** Any person or persons or other entity or entities establishing, managing or operating a home health agency or conducting the business of a home health agency without the required license, or which otherwise violates

any of the provisions of this act or the rules, regulations or standards promulgated and established in furtherance of this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) for each offense. Each day of a continuing violation shall be considered a separate offense. The licensing agency may seek injunctive relief in the event it deems such action necessary after consulting with the State Attorney General.

113 TERMINATION OF OPERATION

113.01 **General.** In the event that Home Health Agency ceases operation, voluntarily or otherwise, the agency shall:

1. Inform the attending physician or podiatrist, patient, and persons responsible for the patient's care in ample time to provide for alternate methods of care.
2. Provide the receiving facility or agency with a complete copy of the clinical record.
3. Inform the community through public announcement of the termination.
4. Ensure the safekeeping, confidentiality, and storage of all clinical records for a period of seven (7) years, following discharge.
5. Return the license to the licensing agency.

PART IV PHYSICAL FACILITIES

114 ADMINISTRATIVE OFFICES.

- 114.01 **Physical Facilities**. Each Home Health office shall be commensurate in size for the volume of staff, patients, and services provided. Offices shall be well lighted, heated, and cooled. Offices should be accessible to individuals with disabilities.
- 114.02 **Administrative Offices**. Each Home Health Agency shall provide adequate office space and equipment for all administrative and health care staff. An adequate number of desks, chairs, filing cabinets, telephones, tables, etc., shall be available.

115 STORAGE FACILITIES.

- 115.01 **Storage**. Each Home Health Agency shall provide sufficient areas for the storage of:
1. 1. Administrative records and supplies
 2. 2. Clinical Records
 3. 3. Medical equipment and supplies

116 TOILET FACILITIES.

- 116.01 **Toilet Rooms**. Each Home Health office shall be equipped with an adequate number of toilet rooms. Each toilet room shall include: lavatories, soap, towels, and water closets.

117 COMMUNICATION FACILITIES.

- 117.01 **Communication**. Each Home Health Agency shall have an adequate number of telephones and extensions, located so as to be quickly accessible from all parts of the building. The telephone shall be listed under the official licensed name of the agency.

118 REGULATED MEDICAL WASTE

- 118.01 **Infectious medical wastes** includes solid or liquid wastes which may contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host has been proven to result in an infectious disease. For purposes of this Regulation, the following wastes shall be considered to be infectious medical wastes:
1. Wastes resulting from the care of patients and animals who have Class I and/or II diseases that are transmitted by blood and body fluid as defined

in the rules and regulations governing reportable diseases as defined by the Mississippi Department of Health;

2. Cultures and stocks of infectious agents; including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;
3. Blood and blood products such as serum, plasma, and other blood components;
4. Pathological wastes, such as tissues, organs, body parts, and body fluids that are removed during surgery and autopsy;
5. Contaminated carcasses, body parts, and bedding of animals that were exposed to pathogens in medical research;
6. All discarded sharps (e.g., hypodermic needles, syringes, Pasteur pipettes, broken glass, scalpel blades) which have come into contact with infectious agents;
7. Other wastes determined infectious by the generator or so classified by the State Department of Health.

"Medical Waste" means all waste generated in direct patient care or in diagnostic or research areas that is non-infectious but aesthetically repugnant if found in the environment.

- 118.02 **Medical Waste Management Plan.** All generators of infectious medical waste and medical waste shall have a medical waste management plan that shall include, but is not limited to, the following:

1. Storage and Containment of Infectious Medical Waste and Medical Waste
 - a. Containment of infectious medical waste and medical waste shall be in a manner and location which affords protection from animals, rain and wind, does not provide breeding place or a food source for insects and rodents, and minimizes exposure to the public.
 - b. Infectious medical waste shall be segregated from other waste at the point of origin in the producing facility.
 - c. Unless approved by the Mississippi Department of Health or treated and rendered non-infectious, infectious medical waste (except for sharps in approved containers) shall not be stored at a waste producing facility for more than seven (7) days above a temperature of 6 C (38F). Containment of infectious medical waste at the

producing facility is permitted at or below a temperature of 0 C (32F) for a period of not more than ninety (90) days without specific approval of the Department of Health.

- d. Containment of infectious medical waste shall be separated from other wastes. Enclosures or containers used for containment of infectious medical waste shall be so secured so as to discourage access by unauthorized persons and shall be marked with prominent warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. Each container shall be prominently labeled with a sign using language to be determined by the Department and legible during daylight hours.
- e. Infectious medical waste, except for sharps capable of puncturing or cutting, shall be contained in double disposable plastic bags or single bags (1.5 mills thick) which are impervious to moisture and have a strength sufficient to preclude ripping, tearing, or bursting under normal conditions of usage. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wastes during storage, handling, or transport.
- f. All sharps shall be contained for disposal in leakproof, rigid, puncture-resistant containers which are taped closed or tightly lidded to preclude loss of the contents.
- g. All bags used for containment and disposal of infectious medical waste shall be a distinctive color or display the Universal Symbol for infectious waste. Rigid containers of all sharps waste shall be labeled.
- h. Compactors or grinders shall not be used to process infectious medical waste unless the waste has been rendered non-infectious. Sharps containers shall not be subject to compaction by any compacting device except in the institution itself and shall not be placed for storage or transport in a portable or mobile trash compactor.
- i. Infectious medical waste and medical waste contained in disposable containers as prescribed above, shall be placed for storage, handling, or transport in disposable or reusable pails, cartons, drums, or portable bins. The containment system shall be leak-proof, have tight-fitting covers and be kept clean and in good repair.
- j. Reusable containers for infectious medical waste and medical waste shall be thoroughly washed and decontaminated each time they are emptied by a method specified by the Mississippi Department of Health, unless the surfaces of the containers have been protected from

contamination by disposable liners, bags, or other devices removed with the waste, as outlined in I. E.

Approved methods of decontamination include, but are not limited to, agitation to remove visible soil combined with one or more of the following procedures:

- k. Exposure to hot water at least 180 F for a minimum of 15 seconds.
- l. Exposure to a chemical sanitizer by rinsing with a immersion in one of the following for a minimum of three (3) minutes:
 - i. Hypochlorite solution (500 ppm available chlorine).
 - ii. Phenolic solution (500 ppm active agent).
 - iii. Iodoform solution (100 ppm available iodine).
 - iv. Quaternary ammonium solution (400 ppm active agent).

Reusable pails, drums, or bins used for containment of infectious waste shall not be used for containment of waste to be disposed of as non-infectious waste or for other purposes except after being decontaminated by procedures as described in part (J) of this section.

- m. Trash chutes shall not be used to transfer infectious medical waste.
- n. Once treated and rendered non-infectious, previously defined infectious medical waste will be classified as medical waste and may be landfilled in an approved landfill.
- 2. Treatment or disposal of infectious medical waste shall be by one of the following methods:
 - a. By incineration in an approved incinerator which provides combustion of the waste carbonized or mineralized ash.
 - b. By sterilization by heating in a steam sterilizer, so as to render the waste non-infectious. Infectious medical waste so rendered non-infectious shall be disposable as medical waste. Operating procedures for steam sterilizers shall include, but not be limited to, the following:
 - i. Adoption of standard written operating procedures for each steam sterilizer including time, temperature, pressure, type of waste, type of container(s), closure on container(s), pattern of loading, water content, and maximum load quantity.
 - ii. Check or recording and/or indicating thermometers during each complete cycle to ensure the attainment of a temperature of 121 C

(250 F) for one-half hour or longer, depending on quantity and density of the load, in order to achieve sterilization of the entire load. Thermometers shall be checked for calibration at least annually.

- iii. Use of heat sensitive tape or other device for each container that is processed to indicate the attainment of adequate sterilization conditions.
- iv. Use of the biological indicator *Bacillus stearothermophilus* placed at the center of a load processed under standard operating conditions at least monthly to confirm the attainment of adequate sterilization conditions.
- v. Maintenance of records of procedures specified in (1), (2), (3), and (4) above for period of not less than a year.
- c. By discharge of the approved sewerage system if the waste is liquid or semi-liquid, except as prohibited by the State Department of Health.
- d. Recognizable human anatomical remains shall be disposed of by incineration or interment, unless burial at an approved landfill is specifically authorized by the Mississippi Department of Health.
- e. Chemical sterilization shall use only those chemical sterilants recognized by the U. S. Environmental Protection Agency, Office of Pesticides and Toxic Substances. Ethylene oxide, glutaraldehyde, and hydrogen peroxide are examples of sterilants that, used in accordance with manufacturer recommendation, will render infectious waste non-infectious. Testing with spores or other equivalent organisms shall be conducted quarterly to ensure the sterilization effectiveness of gas or steam treatment.
- 3. Treatment and disposal of medical waste which is not infectious shall be by one of the following methods:
 - a. By incineration in an approved incinerator which provides combustion of the waste to carbonized or mineralized ash.
 - b. By sanitary landfill, in an approved landfill which shall mean a disposal facility or part of a facility where medical waste is placed in or on land, and which is not a treatment facility.

All the requirements of these standards shall apply, without regard to the quantity of medical waste generated per month, to any generator of medical waste.

PART V GOVERNING BODY AND ADMINISTRATION

119 EMERGENCY OPERATIONS PLAN

119.01 The licensed entity shall develop and maintain a written preparedness plan utilizing the “All Hazards” approach to emergency and disaster planning. The plan must include procedures to be followed in the event of any act of terrorism or man-made or natural disaster as appropriate for the specific geographical location. The final draft of the Emergency Operations Plan (EOP), will be reviewed by the Office of Emergency Preparedness and Response, Mississippi State Department of Health, or their designates, for conformance with the “All Hazards Emergency Preparedness and Response Plan.” Particular attention shall be given to critical areas of concern which may arise during any “all hazards” emergency whether required to evacuate or to sustain in place. Additional plan criteria or a specified EOP format may be required as deemed necessary by the Office of Emergency Preparedness and Response. The six (6) critical areas of consideration are:

- Communications - Facility status reports shall be submitted in a format and a frequency as required by the Office of EOP
- Resources and Assets
- Safety and Security
- Staffing
- Utilities
- Clinical Activities

Emergency Operations Plans (EOPs) must be exercised and reviewed annually or as directed by the Emergency Preparedness and Response. Written evidence of current approval or review of provider EOPs, by the Office of Emergency Preparedness and Response, shall accompany all applications for facility license renewals.

120 GOVERNING BODY

120.01 **General.** The Home Health Agency shall have an organized governing body so functioning which is legally responsible for the conduct of the agency. The administrator and all personnel shall be directly or indirectly responsible to this governing body. The ownership of the home health agency shall be fully disclosed to the State licensure authority. The governing body shall ensure that the agency complies with all applicable local, state and federal laws and regulations and similar requirements. Staff of the Agency shall be currently licensed or registered in accordance with applicable laws of the State of Mississippi. The governing body shall be responsible for periodic administrative and professional evaluations of the agency. The governing body shall receive, review and take action on recommendations made by the evaluating groups and so document the governing body shall adopt and

enforce bylaws, or an acceptable equivalent thereof, in accordance with legal requirements. The bylaws, shall be written, revised as needed, and made available to all members of the governing body, the State licensure authority, and the advisory group. The terms of the bylaws shall cover at least the following:

1. The basis upon which members of the governing body are selected, their terms of office, and their duties and responsibilities.
2. A provision specifying to whom responsibilities for administration and supervision of the program and evaluation of practices may be delegated and the methods established by the governing body for holding such individuals responsible.
3. A provision specifying the frequency of board meetings and requiring that minutes be taken at each meeting.
4. A provision requiring the establishment of personnel policies and an organizational chart, clearly establishing lines of authority and relationships.
5. The agency's statement of objectives.
6. Provisions for appointment of an advisory committee.

120.02 **Agency Policies**. The governing body shall adopt agency policies, including admission, discharge, and care of patients.

121 ADMINISTRATOR

121.01 **Administrator**. The governing body shall be legally responsible for the appointment of a qualified administrator and the delegation of responsibility and authority. The governing body shall assure that the administrator has sufficient freedom from other responsibilities to permit adequate attention to the overall direction and management of the agency. When there is a change of the administrator, the governing authority shall immediately notify the licensing agency in writing of the change. The duties and responsibilities of the agency administrator shall include at least the following:

1. Implementing the policies approved and/or developed by the governing body;
2. Organizing and coordinating the administrative functions of the services, including implementing adequate budgeting and accounting procedures;
3. Maintaining an ongoing liaison with the professional advisory committee and the agency staff;

4. Coordinating service components to be provided by contractual agreement; and
5. Arranging employee orientation, continuing education and in-service training programs.

121.02 **Designee**. In order to provide administrative direction at all times, the agency's governing body or administrator shall designate in writing an individual to act for the administrator in his absence.

122 SUPERVISING NURSE.

122.01 **Qualified Supervising Nurse**. Each Home Health Agency shall employ a qualified supervising nurse on a full-time basis. The supervising nurse shall be a registered nurse licensed to practice in Mississippi, who shall be readily available through the agency office to advise the professional and patient care staff. The supervising nurse shall be employed full-time in home health activities. A qualified alternate is designated in writing to serve in his/her absence.

The supervising nurse shall:

1. Direct, supervise and coordinate the skilled nursing services and other therapeutic services provided by the agency.
2. Be given the authority and responsibility to:
 - a. Develop and revise written patient care objectives policies, and procedure manuals;
 - b. Assist in development of job description;
 - c. Assist in recruitment and selection of personnel;
 - d. Recommend to administrator number of levels of agency staff;
 - e. Plan and conduct orientation and continuing education for agency staff engaged in patient care;
 - f. Evaluate agency staff performance;
 - g. Assist in planning and budgeting for provision of services;
 - h. Assist in establishing agency criteria for admission and discharge of patients.

122.02 **Director of Nursing Services**. Larger agencies should employ a Director of Nursing Services on a full-time basis to assume the duties of the supervising nurse listed above.

122.03 **Ratio of Patients.** The following criteria should be used as a minimum standard in developing the ratio of patients to a supervising nurse:

1. The supervising nurse may serve both as the administrator and the supervising nurse until the patient census reaches 25 patients, then
2. The supervising nurse may have a regularly scheduled patient load until the patient census reaches 50, then
3. The supervising nurse may not render regularly scheduled patient services when the patient census is over 50, but shall devote full-time to supervisory duties. Those duties may include admission and discharge of patients as well as PRN visits and to fill in when another employee is absent.

123 PROFESSIONAL ADVISORY COMMITTEE

123.01 **General.** The governing body shall appoint a multidisciplinary advisory committee to perform a systematic professional and administrative review and program evaluation of the services. Licensed hospitals may establish a committee specifically for this purpose or they may assign the responsibility to an existing committee. Bylaws or the equivalent for this committee shall be initially adopted and annually reviewed. Membership on the professional advisory committee shall include but not be limited to the following:

1. A licensed practicing physician;
2. A registered nurse;
3. Preferably, an appropriate number of members from other professional disciplines, who are representative of the scope of services offered;
4. A consumer; and
5. A professional who is neither an owner nor employee of the agency.

123.02 **Meetings.** The professional advisory committee shall meet at regular intervals, but not less than every six months.

1. Dated written minutes of each committee meeting shall be maintained and made available to the licensing agency upon request; and
2. The agency administrator or his designee shall attend all meetings of the committee.

123.03 **Duties.** The duties and responsibilities of the professional advisory committee shall include but not be limited to the following:

1. Annual review and reevaluation for the program objectives as required;
2. Annual evaluation of the appropriateness of the scope of services offered;
3. Annual review of admission, discharge and patient care policies and procedures;
4. Annual review of the findings of a random sample of medical records (performed by in-house staff members of professional advisory committee) and written evaluation on quality of services provided;
5. Annual review of staffing qualifications, responsibilities and needs;
6. Annual review of survey findings;
7. Review of quarterly utilization statistics and findings of quarterly clinical record review, and
8. Written recommendations to the governing body and the agency administrator for any revisions in policies and procedures and changes in delivery of care; and written recommendations on items such as methods for and participation in a continuing public education program to acquaint the community, the health care professions and public and private community resources on the scope, availability and appropriate utilization of home health services.

124 POLICY AND PROCEDURE MANUAL

124.01 Manual.

1. The home health agency administrator with advice from the professional advisory committee and the director of nursing/supervising nurse shall develop a policy and procedure manual.
2. Written policies and procedures shall include provisions covering at least the following:
 - a. Definition of the scope of services offered;
 - b. Admission and discharge policies;
 - c. Medical direction and supervision;
 - d. Plans of treatment;
 - e. Staff qualifications, assignments and responsibilities;
 - f. Medication administration;
 - g. Medical records;
 - h. Patient safety and emergency care;
 - i. Administrative records;
 - j. Agency evaluation;
 - k. Provisions for after hours emergency care (on call);
 - l. Patients rights policies and procedures; and
 - m. Provisions for the proper collection, storage and submission of all referral laboratory samples collected on home health patients.
3. Patient admission and discharge policies shall include but not be limited to the following:
 - a. Patient shall be accepted for health service on a part-time or intermittent basis upon a plan of treatment established by the patient's physician or podiatrist. Patients accepted for admission should be essentially home bound and in need of skilled services.
 - b. Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.

- c. When services are to be terminated by the home health agency, the patient and the physician or podiatrist are to be notified in advance of the date of termination stating the reason and a plan shall be developed or a referral made for any continuing care.
- d. Services shall not be terminated without an order by the physician or podiatrist in consultation with the registered nurse and/or the appropriate therapist. Except in cases of non-payment, where the specific and approved plan of care has been documented as completed, where the patient refuses treatment, in the event of an unsafe environment, or should the patient require the services beyond the capability of the agency. In any event, the physician or podiatrist shall be notified of the termination of services. Arrangements shall be made for continuing care when deemed appropriate.

125 FINANCIAL

125.01 **Accounting.** Accounting methods and procedures shall be carried out in accordance with a recognized system of good business practice. The method and procedure used should be sufficient to permit annual audit, accurate determination for the cost of operation, and the cost per patient visit.

125.02 **Financial Structure.** All home health agencies shall have an annual operating budget which assures sufficient resources to meet operating cost at all times and to maintain standards required by these regulations.

125.03 **Annual Budget.**

- 1. The annual operating budget shall include all anticipated income and expenses related to the overall operation of the program.
- 2. The overall plan and budget shall be reviewed and updated at least annually by the governing body.
- 3. A budget committee consisting of, but not limited to, the following members shall meet and document in minutes the planning of a yearly budget:
 - a. Representative of the governing body.
 - b. Representative of the administrative staff.

126 PERSONNEL POLICIES

126.01 **Personnel Policies.** Each home health agency shall adopt and enforce personnel policies applicable requirements of the Civil Rights Act of 1964:

- 1. Fringe benefits, hours of work and leave time;

2. Requirements for initial and periodic health examinations;
3. Orientation to the home health agency and appropriate continuing education;
4. Job descriptions for all positions utilized by the agency;
5. Annual performance evaluations for all employees;
6. Compliance with all applicable requirements of the Civil Rights Act of 1964;
7. Provision for confidentiality of personnel records.

126.02 **Personnel Records.** Each licensed agency shall maintain complete personnel records for all employees on file at each licensed site. Personnel records for all employees shall include an application for employment including name and address of the employee, social security number, date of birth, name and address of next of kin, evidence of qualifications, (including reference checks), current licensure and/or registration (if applicable), performance evaluation, evidence of health screening, evidence of orientation, and a contract (if applicable), date of employment and separation from the agency and the reason for separation. Home Health agencies that provide other home health services under arrangement through a contractual purchase of services shall ensure that these services are provided by qualified personnel; currently licensed and/or registered if applicable, under the supervision of the agency.

126.03 **Criminal History Record Checks.**

1. Pursuant to Section 43-11-13, Mississippi Code of 1972, the covered entity shall require to be preformed a disciplinary check with the professional licensing agency, if any, for each employee to determine if any disciplinary action has been taken against the employee by the agency, and a criminal history record check on:
 - a. Every new employee of a covered entity who provides direct patient care or services and who is employed on or after July 01, 2003, and
 - b. Every employee of a covered entity employed prior to July 01, 2003, who has documented disciplinary action by his or her present employer.
2. Except as otherwise provided in this paragraph, no employee hired on or after July 01, 2003, shall be permitted to provide direct patient care until the results of the criminal history record check revealed no disqualifying record or the employee has been granted a waiver. Provided the covered entity has documented evidence of submission of fingerprints for the background check, any person may be employed and provide direct

patient care on a temporary basis pending the results of the criminal history record check but any employment offer, contract, or arrangement with the person shall be voidable, if he/she receives a disqualifying criminal record check and no waiver is granted.

3. If such criminal history record check discloses a felony conviction; a guilty plea; and/or a plea of nolo contendere to a felony for one (1) or more of the following crimes which has not been reversed on appeal, or for which a pardon has not been granted, the applicant/employee shall not be eligible to be employed at the licensed facility:
 - a. possession or sale of drugs
 - b. murder
 - c. manslaughter
 - d. armed robbery
 - e. rape
 - f. sexual battery
 - g. sex offense listed in Section 45-33-23(g), Mississippi Code of 1972
 - h. child abuse
 - i. arson
 - j. grand larceny
 - k. burglary
 - l. gratification of lust
 - m. aggravated assault
 - n. felonious abuse and/or battery of vulnerable adult
4. Documentation of verification of the employee's disciplinary status, if any, with the employee's professional licensing agency as applicable, and evidence of submission of the employee's fingerprints to the licensing agency must be on file and maintained by the facility prior to the new employees first date of employment. The covered entity shall maintain on file evidence of verification of the employee's disciplinary status from any applicable professional licensing agency and of submission and/or completion of the criminal record check, the signed affidavit, if applicable, and/or a copy of the referenced notarized letter addressing the individual's suitability for such employment.

5. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency shall require every employee of a covered entity employed prior to July 01, 2003, to sign an affidavit stating that he or she does not have a criminal history as outlined in paragraph (c) above.
6. From and after December 31, 2003, no employee of a covered entity hired before July 01, 2003, shall be permitted to provide direct patient care unless the employee has signed an affidavit as required by this section. The covered entity shall place the affidavit in the employee's personnel file as proof of compliance with this section.
7. If a person signs the affidavit required by this section, and it is later determined that the person actually had been convicted of or pleaded guilty or nolo contendere to any of the offenses listed herein, and the conviction or pleas has not been reversed on appeal or a pardon has not been granted for the conviction or plea, the person is guilty of perjury as set out in Section 43-11-13, Mississippi Code of 1972. The covered entity shall immediately institute termination proceedings against the employee pursuant to the facility's policies and procedures.
8. The covered entity may, in its discretion, allow any employee unable to sign the affidavit required by paragraph (g) of this subsection or any employee applicant aggrieved by the employment decision under this subsection to appear before the covered entity's hiring officer, or his or her designee, to show mitigating circumstances that may exist and allow the employee or employee applicant to be employed at the covered entity. The covered entity, upon report and recommendation of the hiring officer, may grant waivers for those mitigating circumstances, which shall include, but not be limited to: (1) age at which the crime was committed; (2) circumstances surrounding the crime; (3) length of time since the conviction and criminal history since the conviction; (4) work history; (5) current employment and character references; and (6) other evidence demonstrating the ability of the individual does not pose a threat to the health or safety of the patients in the licensed facility.
9. The licensing agency may charge the covered entity submitting the fingerprints a fee not to exceed Fifty Dollars (\$50.00).
10. Should results of an employee applicant's criminal history record check reveal no disqualifying event, then the covered entity shall, within two (2) weeks two (2) weeks of the notification of no disqualifying event, provide the employee applicant with a notarized letter signed by the chief executive officer of the covered entity, or his or her authorized designee, confirming the employee applicant's suitability for employment based on his or her criminal history record check. An employee applicant may use that letter for a period of two (2) years from the date of the letter to seek employment at any covered entity licensed by the Mississippi Department

of Health without the necessity of an additional criminal record check. Any covered entity presented with the letter may rely on the letter with respect to an employee applicant's criminal background and is not required for a period of two (2) years from the date of the letter to conduct or have conducted a criminal history check as required in this subsection.

11. For individuals contacted through a third party who provide direct patient care as defined herein, the covered entity shall require proof of a criminal history record check.
12. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency, the covered entity, and their agents, officer, employees, attorneys, and representatives, shall be presumed to be acting in good faith for any employment decision or action taken under this section. The presumption of good faith may be overcome by a preponderance of the evidence in any civil action. No licensing agency, covered entity, nor their agents, officers, employees, attorneys and representatives shall be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section.

126.04 **Insurance Coverage.** For the protection of owner, administrator, and the patients served, it is strongly recommended that every home health agency carry liability insurance coverage.

126.05 **Employee Health Screening.** Every employee of a home health agency who comes in contact with patients shall receive a health screening by a licensed physician or nurse practitioner prior to employment and annually thereafter.

126.06 **Staffing Pattern.** Each home health agency sub-unit, and branch shall maintain on site current staffing patterns for all health care personnel including full-time, part-time, contract staff and staff under arrangement. The staffing pattern shall be developed at least one week in advance, updated as needed, and kept on file for a period of one year. The staffing pattern shall indicate the following for each working day:

1. Name and position of each staff member.
2. Patients to be visited.
3. Scheduled supervisory visits.
4. Staff on call after office hours. The staffing pattern shall be updated daily by each home health agency in order to reflect actual staff activities on the previous day.

127 CONTRACT SERVICES FOR PART-TIME, HOURLY OR PER VISIT PERSONNEL-SERVICES BY ARRANGEMENT

127.01 **Contract Services.** Services provided to the agency by contract shall be documented by means of a written contract with the individual or organization providing the service. The written contract shall include provisions covering at least the following:

1. Specification of services covered by the agreement or contract;
2. Effective date and length of the contract and terms of reimbursement;
3. Statement that patients will be accepted for care only by the home health agency;
4. Statement that services are to be provided only in accordance with the patient's plan of treatment and that the patient's plan for treatment will not be altered by the contracted individual or agency;
5. Statement that the quality of services provided and the qualifications of personnel who will provide services shall be consistent with the agency's applicable personnel and program policies and procedures;
6. Identification of parties responsible for supervision of personnel covered by the agreement or contract; and
7. Specification for procedures for, and frequency of, exchanging patient care information between parties to the contract and their agents, including submitting clinical notes, progress notes, scheduling of visits, periodic patient evaluation and participating in developing patient care plans.

128 STAFF DEVELOPMENT

128.01 **Orientation.** Upon employment each employee of the home health agency shall receive thorough orientation to his position; the agency's organization, policies and objectives; the functions of other agency health personnel and how they relate to each other in caring for the patient; relationship of the home health agency to other community agencies; standards of ethical practice; confidentiality; and patient's rights.

128.02 **Home Health Aide Training Program.** Home Health aides, employed by the home health agency shall have previous work experience as a nurses aide or home health aide and/or have completed a special program for home health aides. As a part of the orientation for home health aides, each home health agency employing unqualified home health aides shall develop and implement a training program for newly employed home health aides or require that the aide complete a program outside the agency that meet Medicare requirements regarding duration and subject matter. The aide training program shall be

approved by the Department of Health. Each home health aide shall complete the basic training program prior to the provision of services in the home. Faculty for the training program shall consist of: A registered nurse to provide training in personal care services, and, as appropriate, physicians, dietitians, physical therapists, medical social workers, and other health personnel to provide training in the appropriate areas of health care. The following topics shall be included in the home health aide training program:

1. The role of the home health aide as a member of the health services team;
2. Instruction and supervised practice in personal care services of the sick at home, including personal hygiene and activities of daily living;
3. Principles of good nutrition and nutritional problems of the sick and elderly;
4. Preparation of meals including special diets;
5. Information on the process of aging and behavior of the aged;
6. Information on the emotional problems accompanying illness;
7. Principles and practices of maintaining a clean, healthy and safe environment;
8. What to report to the supervisor, and
9. Record keeping.

128.03 **In-Service Training.** The home health agency shall provide an on-going in-service education program, which should be directly related to home health care and which shall be designed to improve the level of skills of all staff members involved in direct patient care. Full-time and part-time nurses and home health aides shall participate in a minimum of twelve (12) hours of pertinent continuing education programs per year.

128.04 **Documentation of Training.** A written record of all orientation, basic training, and in-service education programs shall be maintained. Records shall reflect content of and attendance at all programs, as well as beginning and ending times.

129 STANDARDS OF ETHICAL PRACTICE

129.01 **General.** Each home health agency shall maintain the highest level of ethical standards in its business practices. The governing body of each home health agency shall adopt written standards of ethical practice, which shall be strictly adhered to by all employees and owners of the agency. These standards shall be posted in each agency office in order to facilitate review by any interested

individual. At a minimum, every home health agency shall include the following items in the agency's standards of ethical practice:

1. Neither the owner nor any home health agency employee shall knowingly mislead a patient, family member or caretaker concerning services, charges, or use of equipment.
2. Neither the owner nor any home health agency employee shall misuse or misappropriate any property-real or personal-belonging to any patient, family member or caretaker.
3. Neither the owner nor any home health agency employee shall knowingly and actively recruit a patient under the care of another home health agency.
4. No employee or patient of a home health agency shall be coerced into participating in agency fund raising activities.
5. The home health agency shall accept patient referrals in a professional manner with no remuneration provided to the referring party.
6. Patient clinical records, administrative records, and financial records shall not be falsified by any individual for any reason.

130 PATIENTS' RIGHTS

130.01 **General.** The agency shall maintain written policies and procedures regarding the rights and responsibilities of patients. These written policies and procedures shall be established in consultation with the Professional Advisory Committee. Written policies regarding patients' rights shall be made available to patients and/or their guardian, next of kin, sponsoring agency or agencies, or lawful representative and to the public. There shall be documented evidence that the staff of the agency is trained and involved in the implementation of these policies and procedures. In-service on patient's rights and responsibilities shall be conducted annually. The patients' rights policies and procedures ensure that each patient admitted to the agency:

1. Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission, of these rights and of all rules and regulations governing patient conduct and responsibilities;
2. Is fully informed prior to or at the time of admission and during the course of treatment of services available through the agency, and of related charges including any charges for services not covered under titles XVIII or XIX of the Social Security Act, or any other third party.
3. Is afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research;

4. Is transferred or discharged only for medical reasons, or for his welfare, or for non-payment (except as prohibited by Titles XVIII or XIX of the Social Security Act), or on the event of an unsafe environment, or should the patient refuse treatment, and is given advance notice to ensure orderly transfer to discharge, and such actions are documented in his clinical record;
5. May voice grievances and recommend changes in policies and services to agency staff and/or to outside representatives of his choice, free from restraint, interference, coercion, discrimination, or reprisal;
6. Is assured confidential treatment of his personal and clinical records, and may approve or refuse their release to any individual outside the agency, except, in case of his transfer to another health care institution or agency or as required by law or third-party payment contract;
7. Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care of his personal needs;
8. No person shall be refused service because of age, race, religious preference, sex, marital status or national origin.

PART VI PLANNING FOR PATIENT TREATMENT

131 PLAN OF TREATMENT

131.01 **Development of Plan of Treatment.** Each home health agency shall establish policies and procedures for assuring that services and items to be provided are specified under a plan of treatment established and regularly reviewed by the physician or podiatrist who is responsible for the care of the patient. Other agency personnel shall have input into the development of the plan of treatment as deemed appropriate by the physician or podiatrist. The original plan of treatment shall be signed by the physician or podiatrist who is responsible for the care of the patient and incorporated in the record maintained by the agency for the patient. The total plan is reviewed by the attending physician or podiatrist, in consultation with agency professional personnel at such intervals as the severity of the patient's illness requires but in any instance, at least once every two (2) months. The registered nurse, and other health professional shall bring to the attention of the physician or podiatrist changes in the patient's condition which indicate the need for altering the treatment plan or for terminating services. No medication, treatment or services shall be given except on signed order of a person lawfully authorized to give such an order.

131.02 **Plan of Treatment Content.** The plan of treatment shall include:

1. Diagnoses relevant to the provision of home health services;
2. Functional limitations and rehabilitation potential;
3. Prognosis;
4. Services authorized by the physician or podiatrist, including frequency and duration;
5. Medications ordered by the physician or podiatrist to include dosage, route of administration and frequency;
6. Treatment, if applicable, including modality, frequency and duration; drug and food allergies;
7. Activities permitted;
8. Diet;
9. Specific procedures deemed essential for the health and safety of the patient;
10. The attending physician or podiatrist's signature;

11. Long term goals and discharge plans;
12. Mental status; and
13. Equipment required.

131.03 **Periodic Review of the Plan of Treatment.** The professional person responsible for any specific treatment shall notify the attending physician or podiatrist, other professional persons, and responsible agency staff of significant changes in the patient's condition. The plan shall be reviewed by the agency care team at least every sixty (60) days and a written summary report sent to the attending physician or podiatrist containing home health services provided, the patient status, recommendations for revision of the plan of treatment, and the need for continuation or termination of services. The attending physician or podiatrist shall be consulted to approve additions or modifications to the original plan. When a patient is transferred to a hospital and readmitted to the agency, the plan of treatment shall be reviewed by the physician or podiatrist. If the diagnosis of the patient has not changed (as documented in the agency's discharge/transfer summary, the hospital's discharge summary and reassessment of the patient), a statement to continue previous orders will suffice. At the end of the sixty (60) day period, new orders shall be written.

132 PATIENT PLAN

132.01 **General.** A patient care plan shall be written for each patient by the registered nurse or other disciplines as needed based upon an assessment of the patient's significant clinical findings, resources, and environment. The initial assessment for patients requiring skilled nursing services is to be made by a registered nurse. Assessments by other care team members shall be made on orders of the physician or podiatrist. The patient care plan shall be updated as often as the patient's condition indicates at least every sixty (60) days and shall be maintained as a permanent part of the patient's record.

132.02 **Content of Patient Care Plan.** The patient care plan shall include:

1. Patient problems;
2. Anticipated goals and time frames;
3. Approaches; and
4. The discipline responsible for a given element of service.

PART VII SERVICES PROVIDED

133 GENERAL.

- 133.01 Each agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The skilled nursing service shall be provided directly by agency staff. Other home health services may be provided by agency staff directly or provided under arrangement through a contractual purchase of services. All services shall be provided in accordance with order of the patient's physician or podiatrist and under a plan of treatment established by such physician or podiatrist.

134 SKILLED NURSING

- 134.01 **General.** Skilled nursing services shall be provided by or under the supervision of registered nurses currently licensed in the State of Mississippi.
- 134.02 **Duties of the Registered Nurse.** The duties of the Registered Nurse shall include, but not be limited to the performance and documentation of the following:
1. Evaluate and regularly reevaluate the nursing needs of the patient;
 2. Develop and implement the nursing component of the patient care plan;
 3. Provide nursing services, treatments, and diagnostic and preventive procedures requiring substantial specialized skill;
 4. Initiate preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety;
 5. Observe and report to the physician or podiatrist when appropriate, signs and symptoms, reaction to treatments and changes in the patient's physical or emotional condition;
 6. Teach, supervise, and counsel the patient and family members regarding the nursing care needs and other related problems of the patient at home; check all medications to identify ineffective drug therapies, adverse reactions, significant side effects, drug allergies and/or contraindicated medications. Promptly report any problems to the physician or podiatrist.
 7. Provide supervision and training to other nursing service personnel;
 8. Provide direct supervision of the Licensed Practical Nurse in the home of each patient seen by the LPN at least once a month;

9. Make supervisory visits to the patient's residence at least every other week with the aide alternately present and absent, to provide direct supervision and to assess relationships and determine whether goals are being met; and
10. Ensures that the patient's nursing care and progress is recorded in the clinical record.

135 LICENSED PRACTICAL NURSING SERVICES

135.01 **General.** Licensed Practical Nursing Services shall be provided by a trained licensed practical nurse working under the supervision of a registered nurse. The duties of the Licensed Practical Nurse shall include, but not limited to the following:

1. Observe, record and report to supervisor on the general physical and mental conditions of the patient;
2. Administer prescribed medications and treatments in accordance with the plan of treatment;
3. Assist the physician or podiatrist and/or registered nurse in performing specialized procedures;
4. Assist the patient with activities of daily living and encourage appropriate self-care; and
5. Prepare progress notes and clinical notes.

136 STUDENT NURSE

136.01 **General.** When an agency elects to participate with an educational institution to provide clinical community health nursing experience for students as part of their nursing curriculum, the student nurse shall perform skilled nursing functions in the patient's home only under the direct supervision of a registered nurse.

136.02 **Written Agreement.** There shall be a written agreement between the agency and each educational institution. The agreement specifies the responsibilities of the agency and the educational institution. The agreement includes, at minimum the following:

1. The agency retains the responsibility for patient care.
2. The educational institution retains the responsibility for student education.
3. The student and facility performance expectations.
4. Faculty supervision of undergraduate students in the field.

5. Ratio of faculty to students.
6. Confidentiality regarding patient information.
7. Required insurance coverage.
8. Provisions for joint agency/facility student program evaluation.

137 HOME HEALTH AIDE SERVICES

137.01 **General.** When an agency provides or arranges for home health aide services, the aides shall be assigned because the patient needs personal care. The services shall be given under a physician or podiatrist's order and shall be supervised by a registered nurse. When appropriate, supervision may be given by a physical, speech, or occupational therapist.

137.02 **Responsibilities of the Home Health Aide.** Responsibilities of the home health aide shall include but not be limited to the following:

1. The home health aide shall perform only those personal care activities contained in written assignment by a health professional employee which include assisting the patient with personal hygiene, ambulation, eating, dressing and shaving.
2. The home health aide may perform other activities as taught by a health professional employee for a specific patient. These include, but are not limited to: shampoo, reinforcement of a dressing, assisting with the use of devices for aide to daily living (walker, wheelchair), assisting with prescribed range of motion exercises which the home health aide and the patient have been taught by a health professional employee, doing simple urine tests for sugar, acetone or albumin, measuring and preparing special diets, intake and output.
3. The home health aide shall not be allowed to perform the following and other procedures requiring skilled services: Change sterile dressings, irrigate body cavities such as a colostomy or wound, perform a gastric lavage or gavage, decubitus care, catheterize a patient, administer medications, apply heat by any method, care for a tracheotomy tube, or any personal health service which has not been included by the professional nurse in the aide assignment sheet.
4. The home health aide shall keep records of personal health care activities.
5. The home health aide shall observe appearance and behavioral changes in the patient and report to the professional nurse.
6. The home health aide patient services shall be evaluated by a health professional at least every other week, with the aide alternately present

and absent, in the home for those patients receiving skilled services. When only home health aide services are being furnished to a patient, a registered nurse must make a supervisory visit to the patient's residence at least once every 60 days. This supervisory visit must occur while the aide is furnishing patient care.

138 PHYSICAL THERAPY SERVICE

138.01 **General.** Physical therapy services shall be given in accordance with the responsible physician's or podiatrist's written order by a physical therapist or physical therapy assistant currently licensed in the State of Mississippi to practice as a physical therapist or physical therapist assistant. The physician's or podiatrist's order shall be specific as to modalities to be utilized and frequency of therapy.

138.02 **Duties of the Physical Therapist.** The duties of the physical therapist shall include, but not be limited to the following:

1. Assisting the physician or podiatrist in the functional evaluation of the patient and development of the individual plan of treatment;
2. Developing and implementing a physical therapy component of the patient care plan;
3. Rendering treatments to relieve pain, develop or restore function, and maintain maximum performance; directing and aiding the patient in active and passive exercise, muscle reeducation, and engaging in functional training activities in daily living;
4. Observing and reporting to the responsible physician or podiatrist the patient's reactions to treatments and any changes in the patient's conditions;
5. Instructing the patient and family on the patient's total physical therapy program and in which they may work with the patient;
6. Instructing the patient and family on the patient's total physical therapy program and in the care and use of appliances, prosthetic and other orthopedic devices;
7. Preparing clinical notes, progress notes, and discharge summaries;
8. Participating in agency in-service training programs;
9. Acting as a consultant to other agency personnel;
10. Developing written policies and procedures for the physical therapy services of the home health agency;

~~11. Provide direct, on-site, face to face supervision of physical therapy assistants at least every sixth treatment day or once every 14th calendar day, whichever occurs first, and be accessible by telecommunications to the physical therapy assistant(s) at all times while the physical therapy assistant is treating patients;~~

~~12.~~ 11. Make the initial visit for evaluation of the patient and establishment of a plan of care;

~~13.~~ 12. *The supervising physical therapist will* make a joint visit with the physical therapy assistant when the physical therapy assistant begins providing services to the patient;

13. *The supervising physical therapist must visit and personally render treatment and reassess each patient who is provided services by the physical therapist assistant no later than every sixth treatment day or fourteenth calendar day, whichever occurs first. It is not a requirement for the physical therapist assistant to be present at this visit; however, it does not preclude the physical therapist assistant from being present. In addition, the supervising physical therapist must be accessible by telecommunications to the physical therapist assistant at all times while the physical therapist assistant is treating patients.*

14. Make the final visit to terminate the plan of care; and

15. Provide supervision for no more than ~~two (2)~~ **four (4)** physical therapy assistants.

138.03 **Duties of the Physical Therapy Assistant.** The duties of the physical therapist assistant shall be limited to the following:

1. Perform physical therapy procedures and related tasks that have been selected and delegated by the supervising physical therapist with the exception of interpretation of referrals; identification, determination or modification of plans of care (including goals and treatment programs); final discharge assessment/evaluation or establishment of the discharge plan; or establishment of the discharge plan; or therapeutic techniques beyond the skill and knowledge of the physical therapist assistant.
2. Notify the supervising physical therapist of changes in the patient's status, including all untoward patient responses.
3. Discontinue immediately any treatment procedures which in their judgment appear to be harmful to the patient.
4. Preparing clinical notes and progress notes.
5. Participation in staff in-service programs.

139 SPEECH PATHOLOGY AND AUDIOLOGY SERVICES

139.01 **General.** The speech pathologist shall be currently licensed by the Mississippi Department of Health. The audiologist shall be currently licensed by the Mississippi Department of Health. Speech pathology and audiology services shall be given in accordance with the responsible physician's written order by a licensed speech pathologist or a licensed audiologist. The frequency of service shall be specified in the physician's order.

139.02 **Duties of the Speech Pathologist and/or Audiologist.** The duties of the speech pathologist and/or audiologist shall include, but not be limited to:

1. Assisting the physician in the evaluation of the patient with speech, hearing, or language disorders; and development of the individual plan of treatment;
2. Developing and implementing a Speech Pathology and/or Audiology Component of the patient care plan;
3. Providing rehabilitative services for speech, hearing, and language disorders;
4. Observing and reporting to the responsible physician the patient's reaction to treatment and any changes in the patient's condition.
5. Instructing other agency personnel, the patient and family members in methods to improve and correct speech, hearing, and language disabilities;
6. Preparing clinical notes, progress notes, and discharge summaries;
7. Participating in agency in-service training programs;
8. Acting as a consultant to other agency personnel; and
9. Developing written policies and procedures for the Speech Pathology/Audiology Services of the Home Health Agency.

140 OCCUPATIONAL THERAPY SERVICES

140.01 **General.** When an agency provides or arranges for occupational therapy, services shall be given in accordance with a physician's or podiatrist's written order by a licensed occupational therapist or a licensed occupational therapy assistant under the supervision of a licensed occupational therapist.

140.02 **Duties of the Occupational Therapist.** Duties of the occupational therapist shall include, but not be limited to, the following:

1. Assisting the physician or podiatrist in the evaluation of patients by applying diagnostic and prognostic tests and by reporting the findings in terms of problems and abilities of the patient; identifying patients' therapy needs and development of the individual plan of treatment;
2. Developing and implementing an occupational therapy component of the patient care plan.
3. Treating patients for the purpose of attaining maximum functional performance through use of such procedures as:
 - a. Task orientation therapeutic activities;
 - b. Activities of daily living;
 - c. Perceptual motor training and sensory integrative treatment;
 - d. Orthotics and splinting;
 - e. Use of adaptive equipment;
 - f. Prosthetic training;
 - g. Homemaking training.
4. Observing, recording and reporting to the physician or podiatrist and agency personnel the patient's reaction to treatment and any changes in the patient's condition;
5. Counseling with regard to levels of functional performance and the availability of community resources;
6. Instructing other health team personnel, patients, and family members;
7. Preparing clinical notes, progress notes, and discharge summaries;
8. Participating in staff in-service educational programs;
9. Developing written policies and procedures for the occupational therapy services of the home health agency;
10. Acting as a consultant to other agency personnel; and
11. Make supervisory visits to the patient's residence with the Occupational Therapy Assistant at least once every three (3) weeks or every five (5) to seven (7) treatment sessions to provide direct supervision and to assess the adherence to the plan of treatment and progress toward established goals.

12. Conduct all initial assessments and establish the goals and plans of treatment before the treatments are provided to the patient by an Occupational Therapy Assistant.
13. Prepare discharge summaries, interim assessments, and initiate any changes in the plan of care for patients treated by Occupational Therapy Assistants.

140.03 **Duties of the Occupational Therapy Assistant.** The responsibilities of the therapy assistant shall be limited to the following:

1. Treating patients for the purpose of attaining maximum functional performance through the use of procedures as:
 - a. Task oriented therapeutic activities;
 - b. Activities of daily living;
 - c. Perceptual motor training and sensory integrative treatment;
 - d. Orthotics and splinting;
 - e. Use of adaptive equipment;
 - f. Prosthetic training;
 - g. Homemaking training;
 - h. Patient and family member education.
2. Observing, recording and reporting to the Supervising Therapist, any reaction to treatment and any changes in the patient's condition.
3. Preparation of clinical or treatment notes.
4. Participation in staff education programs.

141 MEDICAL SOCIAL SERVICES

141.01 **General.** Medical social services shall be provided by a social worker who has a masters degree from a school of social work accredited by the Council on Social Work Education and is licensed as such by the State of Mississippi and has one year of social work experience in a health care setting or by a licensed social worker who has a bachelor's degree from a school of social work accredited by the Council of Social Work Education or Southern Association of Colleges and Schools and has one year of social work experience in a health care setting and who is supervised by a licensed social worker with a masters degree. Medical social services shall be given in accordance with the responsible physician or podiatrist's written order by a

medical social worker. Master's degree social worker shall review and evaluate the performance of the bachelor's degree social worker on a monthly basis.

141.02 **Duties of the Medical Social Worker.** The duties of the medical social worker include, but are not limited to the following:

1. Assisting the responsible physician or podiatrist and other members of the agency team in understanding the significant social and emotional factors related to patient health problems;
2. Assessing the social and emotional factors in order to estimate the patient's capacity and potential to cope with problems of daily living; and assisting in the development of an individual plan of treatment;
3. Developing and implementing a social work component of the patient care plan;
4. Helping the patient and his/her family to understand, accept, and follow medical recommendations and provide services planned to restore the patient to optimum social and health adjustment within his/her capacity;
5. Assisting patients and their families with personal and environmental difficulties which predispose towards illness or interfere with obtaining maximum benefits from medical care;
6. Utilizing resources such as family and community agencies to assist the patient in resuming life in the community or to learn to live with his/her disability;
7. Preparing clinical notes, progress notes, and discharge summaries;
8. Participating in agency in-service training programs;
9. Acting as a consultant to other agency personnel;
10. Development of written policies and procedures for medical social services of the home health agency; and
11. Review and evaluate the work of a bachelor's degree licensed social worker on a monthly basis.

142 NUTRITIONAL SERVICES

142.01 **General.** Nutrition is recognized as an important component of the total health status of all persons. Because state and community health agencies are concerned with the total health care of all, nutrition services must be considered a vital element in all home health agencies' programs. When a

home health agency elects to provide nutrition services, these services shall include an evaluation of the nutritional status of the patient, the results of which shall be included in the patient care plan. Nutritional services shall be provided by or under the supervision of a registered dietitian.

142.02 **Duties of the Dietitian.** The responsibilities of the Dietitian shall include but not be limited to, the following:

1. Assisting the physician or podiatrist in the evaluation of the patient's nutritional status and development of the individual plan of treatment;
2. Developing and implementing a nutritional component of the patient care plan;
3. Selecting, preparing and evaluating teaching materials and aids for patient counseling and education and furnishing direct nutritional counseling services to the patient;
4. Observing and reporting to the physician or podiatrist the patient's reaction and adherence to the diet and change in the patient's nutritional status;
5. Preparing clinical notes, progress, and discharge summaries;
6. Participating in agency in-service training programs;
7. Acting as a consultant to other agency personnel; and
8. Developing written policies and procedures for the nutritional services of the home health agency.

143 RESPIRATORY THERAPY SERVICES

143.01 **General.** Respiratory care services shall be provided only by a registered respiratory therapist or a certified respiratory therapy technician upon the written order of a physician. The physician's order shall specify the modality to be utilized and the frequency of services.

143.02 **Duties of the Respiratory Therapist or Technician.** The duties of the registered respiratory therapist or certified respiratory therapy technician shall include, but not be limited to, the following:

1. Assisting the physician in the evaluation of patients; respiratory disorders, and development of individual plan of treatment;
2. Developing and implementing a respiratory therapy component of the patient care plan;
3. Providing rehabilitative services for respiratory disorders;

4. Observing and reporting to the responsible physician the patient's reaction to treatment and any changes in the patient's condition; and
5. Instructing other agency personnel, the patient, and family member in methods to improve and correct respiratory disabilities;
6. Preparing clinical notes, progress notes, and discharge summaries;
7. Participating in agency in-service training programs;
8. Acting as a consultant to other agency personnel; and
9. Developing written policies and procedures for the respiratory therapy services of the home health agency.

144 OUTPATIENT SERVICES IN LONG TERM CARE FACILITIES

- 144.01 **General.** Any services provided by a home health agency on an outpatient basis to long term care facilities shall be provided under the terms of a written agreement signed by representatives of the home health agency and the long term care facility. The agreement shall contain: responsibilities of both parties, functions, objectives and terms of the agreement, including financial agreements and charges. The services shall be provided in accordance with all applicable laws, rules, and regulations. Clinical records for patients receiving the service shall be maintained with the original clinical record on file in the home health agency office and a copy provided the long term care facility.

145 APPLIANCE AND EQUIPMENT SERVICE

- 145.01 **General.** Appliance and equipment services may be provided to patients by the home health agency only upon the written order of a physician or podiatrist. A home health agency may elect to provide the service directly or indirectly through a supplier. Policies and procedures shall be developed for the appliance and equipment services. All appliances and equipment provided for patients shall be maintained in good condition.

PART VIII CLINICAL RECORDS

146 GENERAL

- 146.01 **General.** Clinical records shall be under the direction of a designated person with adequate staff and facilities to perform required functions. The agency shall maintain a medical record for each patient covering those services provided directly by the agency and those provided by another agency or individual. Symbols or abbreviations used in the clinical records shall be approved by the staff and a current copy of abbreviations shall be maintained in the agency office. Clinical records shall be readily accessible at all times.

147 CLINICAL RECORD

- 147.01 **Clinical Record Content.** A clinical record shall be established and maintained for every person admitted to home health services. The original or signed copy of clinical reports shall be filed in the clinical record. Clinical records shall contain:
1. Appropriate identifying information for the patient, household members and caretakers, pertinent diagnoses, medical history, and current findings;
 2. A plan of treatment;
 3. Initial and periodic patient assessments by the professional discipline responsible performed in the home;
 4. Patient care plan;
 5. Clinical notes signed and dated by all disciplines rendering service to the patient for each contact, written the day of service and incorporated into the patient's clinical record at least weekly;
 6. Reports of case conferences including staff contacts with physicians or podiatrists and other members of the health care pertaining to the patients. Case conferences shall be conducted and documented at least every sixty (60) days or more often as required by the patient's condition;
 7. Written summary reports to the physician or podiatrist every sixty (60) days;
 8. Progress notes written at least every sixty (60) days or more frequently as warranted by the patient's conditions;
 9. Documentation of supervisory visits by a registered nurse or other applicable supervisory personnel;
 10. A discharge summary;

11. A copy of the patient transfer information sheet if patient is admitted to another health care facility;
12. Home health aide written instructions;
13. Verbal orders shall be taken only by registered nurses or health care professionals, and immediately recorded in the patient's clinical record with the date. These orders shall be countersigned by the physician or podiatrist; and
14. Duplicate copies of all laboratory results as reported by the referral laboratory.

148 CONFIDENTIALITY

- 148.01 **Patient Confidentiality.** The agency shall insure confidentiality of patient information in accordance with written policies and procedures. Records shall be stored in a locked area and only authorized personnel shall have access to the records. Clinical records are the property of the home health agency and may be released only with the written consent of the patient, the legal guardian, or in accordance with the law.

149 RETENTION OF RECORDS

- 149.01 **Clinical Records.** Clinical records shall be preserved for a period of not less than five (5) years following discharge. These records may be reproduced on film (microfilmed) or other form of medium acceptable to the licensing agency and, after the discharge of the patient involved, retire the original record so reproduced. If a facility ceases operation, arrangements shall be made for the preservation of records to ensure compliance with these regulations. The licensing agency shall be notified, in writing, concerning the arrangements.

150 AUTHORSHIP

- 150.01 **Authorship.** Entries in the record shall be dated and signed by the person making the entry.

PART IX EVALUATION

151 GENERAL

151.01 **General.** The home health agency shall have written policies requiring an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, and consumers, or representation from professional disciplines outside the agency working in conjunction with consumers. The evaluation consists of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and maintained separately as administrative records. The objectives of the evaluation shall be:

1. To assist the Home Health Agency in using its personnel and facilities to meet individual and community needs;
2. To identify and correct deficiencies which undermine quality care and lead to waste of facility and personnel resources;
3. To help the home health agency make critical judgments regarding the quality and quantity of its services through self-examination;
4. To provide opportunities to evaluate the effectiveness of agency policies and when necessary make recommendations to the administration of what controls or changes are needed to assure high standards of patient care; and
5. To augment in-service staff education.

152 POLICY AND ADMINISTRATIVE REVIEW

152.01 **Evaluation Process.** As a part of the evaluation process, the policies and administrative practices of the agency are reviewed to determine the extent to which they promote appropriate, adequate, effective and efficient patient care. Mechanisms are established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons, and total staff days for each service offered.

153 CLINICAL RECORD REVIEW

153.01 **Clinical Records.** In addition to the annual clinical record review by the in-house staff members on the Professional Advisory Committee, members of

professional disciplines representing at least the scope of the agency's programs shall at least quarterly review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct as well as those under arrangement). The clinical records of at least 10% of the total patient census are to be reviewed; however, at no time shall the review consist of less than ten (10) or more than fifty (50) records. The records reviewed shall be representative of the services rendered and include records of patients served by branch offices, if applicable. This review shall include, but not be limited to the following:

1. If the patient care plan was directly related to the stated diagnosis and plan of treatment;
2. If the frequency of visits was consistent with plan of treatment;
3. If the services could have been provided in a shorter span of time.

153.02 **Continuing Review.** There shall be a continuing review of clinical records for each sixty (60) day period that a patient received home health services to determine adequacy of the plan of treatment and appropriateness of continuation of care.

PART X CONCLUSION

154 GENERAL

154.01 **Conclusion.** Conditions which have not been covered in the Standards shall be enforced in accordance with the best practices as interpreted by the Licensing Agency. The Licensing Agency reserves the right to:

1. Review the payroll records of each home health agency for the purpose of verifying staffing patterns;
2. Visit home health patients in their place of residence in order to evaluate the quality of care provided;
3. Grant variances as it deems necessary for agencies existing prior to July 1, 1981;
4. Information obtained by the licensing agency through filed reports, inspection, or as otherwise authorized, shall not be disclosed publicly in such manner as to identify individuals or institutions, except in proceedings involving the questions of Licensure; and
5. The Licensing Agency shall reserve the right to review any and all records and reports of any home health agency, as deemed necessary to determine compliance with these Minimum Standards of Operation.